

Standby One Associates and Local 32E, Service Employees International Union, AFL-CIO. Case AO-248

30 April 1984

ADVISORY OPINION

**BY CHAIRMAN DOTSON AND MEMBERS
ZIMMERMAN, HUNTER, AND DENNIS**

A petition was filed on 7 November 1983 by Standby One Associates, the Petitioner, for an advisory opinion in conformity with Sections 102.98 and 102.99 of the National Labor Relations Board Rules and Regulations, seeking to determine whether the Board would assert jurisdiction over the Petitioner.

In pertinent part the petition alleges as follows:

(1) There is pending before the New York State Labor Relations Board, the State Board, an unfair labor practice charge, Case No. SU-54954, filed by Local 32E, Service Employees International Union, AFL-CIO, the Union, against the Petitioner.

(2) The Petitioner is a limited partnership which owns a low income apartment complex located at 1403, 1411, 1417, 1421, and 1425 Grand Concourse, Bronx, New York. Its principal office is located at 345 Park Avenue, New York, New York. By its petition, the Petitioner asserts that its gross annual revenues exceed \$500,000.

(3) The Union neither admits nor denies the commerce data and the State Board has made no findings with respect thereto.

A representation proceeding, Case 2-RM-1941, and an unfair labor practice proceeding, Case 2-

CA-20146, have been filed with the National Labor Relations Board, Region 2.¹

Although all parties were served with a copy of the petition for advisory opinion, none has filed a response as permitted by the Board's Rules and Regulations.

On the basis of the above, the Board is of the opinion that

Our rules providing for the issuance of advisory opinions were promulgated to provide a method for state agencies and persons in doubt to determine whether the Board would assert jurisdiction in certain circumstances. Here, however, there is pending before the Board a statutory unfair labor practice proceeding in which a binding adjudication of the jurisdictional issue can be obtained from the Board within the framework of that proceeding. Because no other considerations suggesting an urgent need for earlier Board determination of the jurisdictional question alone have been brought to the Board's attention, the underlying purpose of the advisory opinion procedures will be better served, and unnecessary duplication and possible confusion will be avoided, if the Board follows the practice of confining itself solely to the resolution of the statutory proceeding before it.²

Accordingly, it is ordered that the petition for advisory opinion be dismissed.

¹ The Board has administratively been advised that the State Board has issued a certification in this matter and, therefore, the Regional Director has dismissed the representation proceeding. In addition, we have been advised that an 8(a)(5) complaint issued against the Petitioner herein on 2 March 1984.

² *Hotel & Restaurant Employees Local 49 (Diamond Springs Hotel)*, 236 NLRB 711 (1978).